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BEFORE AND AFTER THE VETO

BY EDWARD PORRITT

THERE have been only three great crises in the history of the House of Lords since the Revolution of 1688—the Revolution at which the English people shook themselves free from the Stuarts and the old Tory doctrine of the divine right of kings and imported the Hanoverians, and at which, quite as important as these momentous changes, the aristocracy—known since 1851, when Edward Michael Whitty coined the phrase, as the governing class—drew to itself absolute control of Parliament and of the government of England. The first of these crises came with the struggle over the Reform Bill of 1830-32. The second grew out of the bills for the extension of the Parliamentary franchise and for the redistribution of seats in the House of Commons of 1884-85; and the third and last over the Lords' Veto Bill, which received the Royal Assent on August 18th.

Little unpleasantnesses between the Commons and the Lords, arising over the powers of each with regard to money bills, occurred now and again from 1661, when the issue was a bill, originating with the Lords, for the paving of streets of Westminster in the neighborhood of St. Stephen's Palace, to 1861, when there was trouble over the repeal of the paper duties. The Lords in 1661 were greatly concerned over the wretchedness of the road between St. James's Palace and St. Stephen's—the road over which Charles II. had to travel when he went in state to open or prorogue Parliament; and in their royalist zeal they carried a bill through their House for the repair of the streets of Westminster.

This would have laid a charge on the city of Westminster; and so when the bill, which had thus originated in the House of Lords—where no money bill should originate—reached the Commons, an objection was promptly raised. The Lords

were told that the Commons had observed "that the said bill was to alter the course of law in part and to lay a charge upon the people," and that the Commons conceived that "it is a privilege inherent in this House that bills of that nature ought to be considered here." After this observing and conceiving, it was ordered by the Commons that "the said bill be laid aside, and that the House of Lords be acquainted with the reason for doing so."

The House of Commons did not end the business with this observing and conceiving. It went a stage further; for it was ordered, as the Journal of the House of Commons for July 24, 1661, reads, that the House of Lords "be asked not to suffer any mention of the bill to remain in their Journals." Nevertheless, as the condition of the streets in the neighborhood of St. Stephen's Palace was undeniably and notorious-ly bad, and as Commons as well as Lords had to wade through the mud to reach the palace, the Commons were willing to accommodate themselves as well as Charles II. and the Lords; and on July 24th they "further acquainted" the Lords "that this House, finding the matter of the bill to be very useful and of public concernment, have ordered a bill of the like nature to be prepared and brought in to-morrow." The next day the substitute bill was introduced in the Commons. It was then read a second time; and the Commons were so eager to put an end to wading through mud to St. Stephen's both for Commons and Lords, and were, moreover, equally eager that no harm should come to Charles II.'s state coach, that progress on the bill was expedited; and by July 27th it had been read a third time and sent to the Lords.

In the mean time the bill from the Lords had been "cushioned," to use the phraseology of the Irish Parliament of the days before the repeal of Poynings' Act; and it was over the "cushioning" process that the final conflict between the two Houses occurred. Progress on the substitute bill in the Lords was as expeditious as it had been in the Commons, where it originated. It went through all its stages in the Lords between July 27th and July 29th, and on this day it was back in the Commons because of a proviso added by the Lords. In this proviso the Lords objected to the quashing of their bill and to the substitution therefor of the bill of the Commons. They cited three local improvement Acts imposing local charges, passed in 1562 and 1588, which

had originated with the Lords, although apparently not without protest from the House of Commons,

" Yet out of their tender and dutiful respect to His Majesty, who is much incommoded by the neglect of those highways and sewers mentioned in the bill, they have for this time, in that respect alone, given way to the bill now in agitation which came from the Commons, with a proviso of their Lordships."

The proviso declared that " nothing in this bill shall extend to the privilege of both or either of the Houses of Parliament," and that the act for paving the streets of Westminster " should not be drawn into example to their Lordships' prejudice." The Commons would not accept the proviso, but they offered a substitute proviso because that from the Lords " did insinuate a right which their Lordships claimed, which they (the Commons) could not admit."

The substitute proviso read " that nothing in this act shall be understood or shall extend to the admitting or creating of any right or principle of either House of Parliament which hath not formerly and justly belonged to either of them." With this substitute proviso the Westminster paving bill went back to the House of Lords. There it was objected that the Commons' proviso destroyed the proviso of the Lords. This the Commons, of course, intended it to do; so there was a deadlock. The bill failed to pass, and the Lords publicly advertised their defeat by the Commons, when they issued a proclamation—that had absolutely no force and was really an appeal—calling upon the justices of the peace of Westminster to put the streets in the neighborhood of Whitehall and Westminster into better order.

All the other conflicts over money bills from 1661 to 1861 ended as obviously in favor of the Commons as that of the year after the Restoration; and the only really great crisis growing out of conflicts between the two Houses were, as has been said, those of 1832, 1884, and 1909-11.

In the memorable struggle of 1832 over the Reform Act—the bill effecting great changes in the electoral system which had been admitted to be necessary and imperative as far back as the reign of Queen Elizabeth—the Lords were defeated. They were defeated, however, under circumstances which in no degree diminished the dignity with which they had entered upon that momentous conflict and maintained it until, under the leadership of Wellington, they had realized that defeat was inevitable. In the conflict of

1884 over the bill which extended the franchise to all the working classes, and the bill for the redistribution of seats, practically all the advantages and undeniably all the honors were with the Lords. It was the one great crisis out of which the Lords emerged victorious.

In that struggle there was a greater and more widely extended popular uprising against the Lords and their claims with regard to these two bills than there had been in 1832, chiefly because owing to enormously improved means of communication and of travel popular political demonstration was much more practicable than it had been during the crises of 1831 and 1832. There was in the summer of 1884 no rioting as there had been at Bristol, and no burning of castles as there had been at Nottingham. There was no run on the Bank of England, organized for political effect, as during the agitation of 1832. But the country was aroused in 1884 even more than it was over the Lords' Veto Bill of 1911; and from July to October, Bright, Morley, Chamberlain, and Dilke, the more radical leaders of the Liberal party of that day, were addressing great meetings—some held indoors, others in the open air—and demanding either the "ending or the mending" of the House of Lords.

During the summer and autumn months of 1884, on the surface it really looked as though the ending or mending of the House of Lords was about to happen—that a conflict impending since 1832 was to be fought out and settled before the Parliamentary franchise about to be extended to the working classes outside of the boroughs could be exercised by the new voters at a general election. But it was only on the surface that things were thus, for as yet the great division in the Liberal party on Home Rule had not occurred, the working classes had not yet begun to use their votes to return forty-odd Labor members to the House of Commons. England in 1884, as since 1688, was still governed by the territorial families of both political parties, and consequently at this time the Whigs were dominant in Gladstone's cabinet, as they had been in every Whig or Liberal cabinet since the end of the long Tory régime that was the immediate and outstanding result of the agitation for the Reform Bill of 1832 and its enactment.

A few Whigs of the Argyll and Lansdowne type had, it is true, broken away from Gladstone and the Liberals over the Irish land legislation of 1881. It has invariably been on

land questions—tenant right, game laws, land-purchase bills, and especially on bills for taxing land—that the territorial class has aroused itself in politics. This had been the case with the Whigs who left Gladstone in 1881. Thus the advance-guard of the small but territorially and politically powerful group of Whigs that was to break away from the Liberals in 1886, and soon thereafter to become indistinguishably merged in the Conservatives and in the governing class of the Conservative party, had moved away from the Liberals before the conflict with the House of Lords over the franchise bills of 1884. But during this conflict the Whigs were still all-powerful in the Liberal cabinet. Gladstone threatened the Lords then, as he did again in 1893, after their rejection of the second Home Rule Bill, but not the least harm could come to the House of Lords while the Whigs controlled the cabinet.

Notwithstanding the many popular demonstrations of 1884 at which Bright and Morley and Chamberlain and Dilke denounced the Lords as they had never before been denounced by statesmen of the rank of these four men—notwithstanding the vehemence with which these leaders insisted on mending or ending, and the popular support to the movement led by them, nothing prejudicial to the House of Lords happened in 1884. While these more radical and democratic leaders of the Liberal party were traveling from end to end of the country on this four months' campaign against the House of Lords, and keeping the rank and file of Liberals in the constituencies at white heat, much was happening quite below the surface. Much was happening that has not yet gone into the general histories—that can be traced only from the memoirs of the men who effected the settlement of 1884. The memoirs published up to 1911 show that while Bright and Morley and Chamberlain and Dilke were conducting a propaganda against the Lords without precedent in its extent, and in the success that was seemingly attending it, Gladstone, Hartington, and Granville were taking counsel and afternoon tea with Salisbury, Stafford Northcote, and Gathorne Hardy. Gladstone was meeting Northcote by night at the rooms in St. James's Palace of one of Gladstone's former private secretaries, who held a court appointment, because, as recorded in the *Life, Letters, and Diaries of Sir Stafford Northcote*, Gladstone "was nervous about meeting in the daytime, as so many people watch."

It may be that at this time Gladstone was ready to make any sacrifice to insure the enactment of the bill extending the franchise, which the Lords had rejected at the end of June—the rejection which had brought about the crisis—and that he was unwilling that mending or ending the House of Lords should be permitted to complicate the issue of the franchise and redistribution bills. This is a possible explanation of Gladstone's action. But the result was that the Lords came out of the crisis with colors flying; and these colors might be flying to-day where they were hoisted in 1884 if the Lords had not openly overplayed the game from 1906 to 1909, and so wantonly and egregiously overplayed the game of the territorial class on the Budget of 1909. "The tenderness of the statesmen of that day," said *The Nation*, the leading exponent of Liberalism in the London press, in surveying on August 12th the factors in the downfall of the Lords, "was largely responsible for much of the trouble of the ensuing years." This is undoubtedly true, although tenderness to the Lords was just what was to be expected from the Whigs of the Liberal cabinet of 1880-85.

After the collapse of the agitation of July-October, 1884, the popular idea was that there was an understanding between the governing classes of both political parties, and that as long as this understanding existed, and their remained a potent element of Whiggism in Liberal cabinets, agitations against the Lords were futile, no matter what the issue or how great and continuous the popular demonstrations. This conviction among the rank and file of the Liberals partly accounts for the utter failure of the movement against the House of Lords that was attempted by the National Liberal Federation after the Lords had rejected the Home Rule Bill of 1893. It accounts almost completely for the absence of popular agitation against the House of Lords from 1893 to 1906. The failure of the agitations of 1884 and 1893 apparently convinced the House of Lords—more overwhelmingly Conservative from 1886 to 1906 than at any time since 1832—that do what they might, no popular enthusiasm could be aroused for a second movement for mending or ending, and this attitude was much strengthened during the five years of Tory reaction from 1900 to the end of 1905, five years during which the Lords took their ease, and left everything to the Conservative governments of that period, which were supported by majorities in the House

of Commons unprecedented since the days of the younger Pitt.

If the victory of 1884 was responsible, or even partly responsible, for the aggressive attitude of the House of Lords after the great revival of democracy of 1906, then the tenderness of Gladstone and Hartington and Granville for the Lords at the great crisis over the franchise bill was undoubtedly "responsible for much of the trouble of the ensuing years"—responsible for the trouble which culminated in the partial deprivation of the Lords of their veto power over bills originating in the House of Commons. This attitude of the House of Lords, whether it developed out of the failure of the agitations of 1884 and 1893, or whether it is attributable to other and more recent causes, unquestionably helps to account for the colossal blunder of November, 1909—the most suicidal demonstration of reaction and Bourbonism of which the history of the House of Lords affords an example.

It is at this point where the histories of the crises of 1830-32 and of 1909-11 cease to run on parallel lines. The House of Lords in 1832 was on the defensive. It was defending the political power possessed by the governing class from 1688 to the reform of the representative system in 1832. From causes that are obvious the governing class in this period was in complete and absolute control of the House of Commons, as well as of the House of Lords. It was so completely in control of the Commons that after the constitutional usages relative to the power of each House over money bills had been settled beyond further contention in 1747, on the legislation for Scotland made necessary by the Jacobite rising of 1745, and the settlement had been recognized by the cabinet of the day, of which three-fourths of the members were of the House of Lords, there were no more conflicts between the two Houses until that of 1832. There was no occasion for any, for in this period the governing class controlled both the cabinet, where legislation mostly originated, and the House of Commons. Under these conditions the House of Lords was not even a revising chamber, to say nothing of being of service for the rejection of bills detrimental to the interests of the governing class.

For good or ill, the governing class was in control of the House of Commons from the Revolution of 1688 until this domination was to a limited extent successfully assailed by

the first Reform Act. It needed this power to secure control of the cabinet, and also to obtain the enactment of legislation for the maintenance and advancement of the political, economic, and social interests of the governing class. In this century and a half the governing class came to regard the power it had drawn to itself of nominating more than half the members of the House of Commons as a property right—a right to be held as tenaciously as the title deeds to the great estates of its members. The governing class regarded the government it bestowed on the country, through its control of the cabinet and Parliament, as the best possible kind of government, exercised through the best possible political institutions. Wellington's first declaration in the struggle of 1830-32 for reform was that it would pass the wit of man to devise a better House of Commons than that elected on the then existing system—the system which had been completely warped away from its democratic basis of the thirteenth and fourteenth centuries, first in the interest of the Crown and its control of the House of Commons, and later in that of the governing class.

From the point of view of the governing class all that Wellington claimed for the House of Commons of 1830 was obviously and undeniably true. From this one point of view—as the political, agrarian, economic, industrial, fiscal, ecclesiastical, and social history of England from the reign of William III. to that of Queen Victoria abundantly proves—there was more than adequate ground for the Duke of Wellington's now historic declaration. The governing class, as it was represented in the House of Lords at that period, was thus in 1830-32 fighting, and fighting desperately, for the maintenance of a great political system that had been incorporated in the British constitution at least since 1688. The Tories of the House of Lords of 1830-32 were fighting for a system of much antiquity and of much service to the governing class—a system which this class held to be peculiarly and happily adapted to England, and, next to the Crown, the most precious part of the British constitution. The Lords, in that great crisis, went to defeat in their opposition to a political revolution which within the next eighty years was to prove itself even more momentous than the settlement of the Crown on a constitutional basis in 1688.

The House of Lords in 1910, when the Budget of 1909 was carried, and in 1911, when the Veto Bill was enacted, went

down to defeat on what in this country would be dignified by no more high-sounding description than a tax-dodgers' fight. More discussion of the constitutional aspects of these two questions—the budget and the veto—has appeared in print since November, 1909, than of any other constitutional issues raised in England in the last two hundred years. All this discussion, however, will not serve to disguise the central fact, which is, that had there been no rejection of the Budget the probability is that in this generation there would have been no Veto Act. The chief issue had no higher actuating force than a tax-dodgers' fight. There have been four of these tax-dodgers' fights in Parliament since the French Revolution. In only one was the governing class completely successful. It was worsted in three of them; and in the fourth and last the governing class was not only routed on the question of taxation, but lost much of the power which for a hundred and fifty years it had been accumulating in the House of Lords.

The first of these Parliamentary struggles of the governing class against the taxation of land was in 1796. Then Pitt, sore in need of money for the war with France—confronted with the raising of twenty-seven millions sterling by taxation—proposed that there should be taxes on collateral successions to landed property. The legacy duty—first imposed to raise money for the war with the revolted American colonies—had been in operation since 1780; but it was paid only on personal and not on real property. Pitt's proposal of 1796 was that there should be a tax only on collateral successions. The proposal, small as it was, and exigent as were the financial needs of the government, would for the first time have conceded the principle that all property—real as well as personal—should pay legacy duties. It was opposed by the governing class. Pitt followed the line of least resistance, as was inevitable in the case of a premier who depended on the governing class for his majority in the House of Commons. He abandoned the proposed tax; and to make good the gap in his estimates raised £100,000 by a new duty on hats, £40,000 by a tax on dogs, and imposed new taxes on transport.

There were increases in the rates of legacy duty in 1804, 1805, and again in 1815. But real property was not made liable to these imposts; and it did not become chargeable until Gladstone's great Budget of 1853, by which he re-estab-

lished the income tax, and brought into service the principle as to legacy duties that Pitt had unsuccessfully urged in 1796. The governing class opposed Gladstone in 1853 with nearly as much vehemence as it opposed the Budget of 1909. It denounced Gladstone much as it did Lloyd George; and Morley writes that this Budget of 1853 secured for Gladstone "the lasting resentment of a powerful class." Harcourt's Budget—the Finance Act of 1894—carried the principle of the taxation of landed property much further than Gladstone had done; and again there was bitter and persistent opposition by the governing class.

Conditions for successful opposition to the Budget of 1909 seemed to the Lords more favorable than in either 1853 or 1894. Hence a constitutional power of the House of Lords, in desuetude since at least as far back as 1661, and long deemed as dead as the sovereign's veto on legislation, was revived, and the Budget was rejected. Thus was precipitated a conflict impending since 1832. The rejection of the Budget in itself raised no new constitutional issue. It raised no such issue as that of 1832. It was only a renewal of the fight of the governing class against the taxation of landed property, successful in 1796 and unsuccessful in 1853 and 1894. On that issue, and the much more important and really constitutional issue of the veto power of the House of Lords precipitated by it, there was from the first no hope of success for the governing class. If the Lords had left to the democracy the choice of the ground on which they would fight, they could not have chosen better than the Lords chose for them. It is hard to raise popular sympathy for tax-dodgers. It was a sordid issue on which the Lords unexpectedly and wantonly revived the movement of 1884. There could be no dignity in a struggle forced on the people on an issue so based—in a struggle begun by the Lords to maintain what was left of the old doctrine of the governing class, that its existence was so vitally important to the British nation that the people should make continuous sacrifices for its maintenance and aggrandizement. The Crown in the great crisis of 1911 emerged with infinitely more credit than in 1832, the Lords with infinitely less.

During the long-drawn-out crises of 1909-11, and since the Veto Bill received the Royal Assent, somber, doleful, and despairing have been many predictions of the future of the House of Lords. English Toryism, however, as the

records of 1829, 1832, 1846, 1867, 1868, and 1884 testify, is apt at times to be amazingly gloomy and pessimistic. The end of the British Empire is always in sight after a Conservative reverse; and single-chamber rule must inevitably, according to these predictions, bring the British Empire to ruin. Students of British constitutional history familiar with the structure, constitution, procedure, and legislation of the Parliament of Scotland, and with Alison's well-grounded encomium on the great contribution of that remarkable Parliament to the civilization of Scotland when it came into the Union in 1707, are not much afraid of single-chamber legislatures. But the Veto Act does not establish single-chamber rule, or anything approximating to single-chamber rule, at Westminster. There is no ground for the apprehension that the House of Lords will sink into a chamber like the House of Lords in the old Parliament of Ireland, or like the Senate at Ottawa. Power of delay for two sessions in a country where the people are so politically well educated, so politically alert, and on whom party ties are so little binding, is an enormous power.

It is a power that will give a new importance to the House of Lords, and furnish an infinitely larger field of political service for its men of ability and distinction. In my days in the press gallery of the House of Commons it was rarely that more than one member of a reporting corps was told off for duty in the House of Lords, and only about one-fourth as much space in the newspapers was assigned to the Lords as was assigned to the House of Commons. Reporting the Lords was what college boys would describe as a snap. All this will be changed. The Lords will be compelled to find within their chamber a place from which the reporters can hear all that is said. More reporters will be assigned to the Lords, more space be given the Lords in the daily newspapers, because under the new conditions the country will want to know just what is said and done in the Lords on a bill over which the suspensory veto is to be exercised.

Since the printers won in their famous contest with the House of Commons in 1771, and especially since Parliamentary reporting was so finely developed by James Perry, of the old Whig *Morning Chronicle*, in the last twenty years of the eighteenth century, the House of Commons has had an enormously preponderating weight in the forming of public opinion. Henceforward under conditions that must develop

from the working of the Veto act of 1911, the supremacy of the Commons in this important function will be assailed as never before by the Lords; for a new importance must attach, not only to the speeches in the House of Lords on all bills over which the suspensory veto may possibly be exercised, but to the utterances of members of the House of Lords outside of St. Stephen's. While the backwoods peers will, in future, be of less political importance than heretofore, in and out of Parliament—at Westminster and on the platform in the country—there are now offering new and continuous opportunities for the leaders in the House of Lords; in fact, for all those members of the Lords who take their political duties with seriousness, and are disposed to throw themselves as fully into the political life of the country as do the members of the House of Commons who make politics and public life their career.

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